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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
The Establishment of Policies) IB Docket No. 99-81
and Service Rules for the Mobile) RM-9328
Satellite Service in the 2 GHz Band)

COMMENTS OF THE PERSONAL COMMUNICATIONS
INDUSTRY ASSOCIATION

The Personal Communications Industry Association ("PCIA")¹ hereby comments on the Commission's Notice of Proposed Rulemaking in the above-captioned docket.² PCIA's comments are limited to issues implicating certain segments of the Ka-band—specifically, 29.1-29.25 GHz, which is shared by the Mobile Satellite Service ("MSS") and the Local Multipoint Distribution Service ("LMDS"), and 27.5-28.35 GHz, which is currently allocated to LMDS on a primary basis. PCIA urges the Commission to ensure that no action it takes in this rulemaking

¹ PCIA's Wireless Broadband Alliance members hold fixed broadband licenses or manufacture equipment in bands under consideration for satellite feeder link operations in this docket. PCIA is an international trade association established to represent the interests of the commercial and private mobile radio service communications industries and the fixed broadband wireless industry. PCIA's Federation of Councils includes: the Paging and Messaging Alliance, the PCS Alliance, the Site Owners and Managers Association, the Association of Wireless Communications Engineers and Technicians, the Private Systems Users Alliance, the Mobile Wireless Communications Alliance, and the Wireless Broadband Alliance. As an FCC-appointed frequency coordinator for the Industrial/Business Pool frequencies below 512 MHz, the 800 MHz and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business Eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of FCC licensees.

² FCC 99-50 (rel. Mar. 25, 1999) ("Notice").

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proceeding and in processing specific applications pursuant to action taken in this docket impedes or otherwise further constrains the use of the spectrum available for LMDS operations.

In the *Notice*, the Commission seeks comment regarding proposals by parties to the 2 GHz MSS proceeding for feeder links to be assigned in a variety of bands, including the Ka-band.³ As far as PCIA has been able to determine, only the proposals of Iridium and Celsat implicate frequencies also available for LMDS operations. Iridium seeks to operate NGSO MSS feeder uplinks in the 29.1-29.5 GHz band, and Celsat seeks 850 MHz somewhere in the 27.5-30.0 GHz band for GSO MSS feeder uplinks.⁴

PCIA's goal in participating in this proceeding is to urge the Commission to take no action that would in any way impinge upon the use of frequencies allocated for LMDS operations except as is necessary and consistent with current Commission rules. LMDS operators around the country are rolling out their networks, and the Commission has recognized that LMDS and other broadband wireless operators represent significant potential competition to incumbent service providers.⁵ In order to provide these competitive services to the public,

³ *Notice*, ¶ 49.

⁴ *Id.*, ¶¶ 50, 62. PCIA points out that the chart included as part of paragraph 50 indicates that Celsat has requested 850 MHz in 27.5-28.35 GHz band for feeder uplink. In fact, in an amendment dated December 19, 1997, Celsat amended its application to specify 850 MHz of spectrum anywhere from 27.5-30.0 GHz for feeder uplink. Amendment to Application of Celsat America, Inc., File Nos. 26/27/28-DSS-P-94, at 3 (filed Dec. 19, 1997).

⁵ See, e.g., FCC News, *FCC Initiates Proceeding To Promote Development of Competitive Networks*, at 1 (rel. June 10, 1999); FCC News, *Press Statement of Chairman William E. Kennard on "Wireless Day,"* at 2 (rel. June 10, 1999); *In the Matter of Rulemaking To Amend Parts 1, 2, 21, and 25 of the Commission's Rules To Redesignate the 27.5-29.5 GHz Frequency Band, To Reallocate the 29.5-30.0 GHz Frequency Band, To Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services*, 12 FCC Rcd 12545, 12546 (1997) (Second Report and Order, Order on Reconsideration, and Fifth Notice of Proposed Rulemaking).

however, LMDS providers must not be further limited in their ability to use effectively the spectrum allocated to LMDS operations and purchased by them through competitive bidding.

In that regard, the Celsat feeder uplink proposal implicates the 27.5-28.35 GHz band, which is part of LMDS block A. This band is allocated to LMDS on a primary basis, with secondary use permitted by Fixed Satellite Service (“FSS”) systems.⁶ While PCIA questions whether *any* authorization should be granted to Celsat for feeder uplink spectrum in this portion of the band, the Commission must, at a minimum, ensure that any authorization issued to Celsat makes clear that its operations would be permitted only on a non-interference basis and that any allegations of impermissible interference to or from LMDS operations would necessitate an immediate cessation of use of the spectrum by any MSS feeder link operations.⁷

In addition, both the Celsat and Iridium applications involve the 29.1-29.25 GHz band. LMDS operations in that band are permitted on a co-primary basis with NGSO MSS systems, and limited to hub-to-subscriber operations.⁸ Furthermore, LMDS operators in these frequencies are constrained in locating facilities near feeder link earth station complex protection zones.⁹ Although the Commission has sought to balance the interests of the LMDS and satellite operators in this band, the result is that LMDS licensees are restricted in their ability to make the

⁶ Celsat apparently has recognized the secondary status of its proposed use of this band segment. *See* Amendment to Application of Celsat America, Inc., File Nos. 26/27/28-DSS-P-94, at 2-3 (filed Dec. 19, 1997).

⁷ Celsat has proposed GSO MSS use of 27.5-28.35 GHz, which otherwise is allocated to FSS. To the extent the Commission deems that a waiver is required to permit Celsat to operate in this band as requested, PCIA is not convinced that Celsat has made the type of showing that would warrant a waiver, particularly in light of concerns about impeding the operation of primary LMDS systems in this band.

⁸ *See* 47 C.F.R. § 101.1005(b)(2).

⁹ *See* 47 C.F.R. § 101.103(h); *see also* 47 C.F.R. § 25.257.

most effective use of this spectrum. These limitations involve the positioning of facilities in certain areas and the nationwide operational constraint. The Commission should take all necessary steps to ensure that it does not expand the rights of satellite carriers in the 29.1-29.25 GHz band so as to further impede LMDS operators' ability to make effective technical and business use of that band.¹⁰ For example, the Commission should ensure that the MSS industry makes full use of the already-created ten feeder link protection zones before considering any new locations that would enjoy co-primary status with LMDS operations. Pursuing this line of action would further the public interest by ensuring that LMDS operators — representing a significant potential source of a variety of competitive local communications services — are permitted to make the fullest use possible of the spectrum allocated to this service.

¹⁰ PCIA notes that the limitation on LMDS use of 29.1-29.25 GHz for hub-to-subscriber transmissions reflected the recommendation of the Negotiated Rulemaking Committee and the perception that the satellite and LMDS operations could not more fully share this spectrum without leading to unacceptable technical limitations either on Iridium or LMDS licensees. *See, e.g., Rulemaking To Amend Parts 1, 2, 21, and 25 of the Commission's Rules To Redesignate the 27.5-29.5 GHz Frequency Band, To Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services*, 11 FCC Rcd 19005, 19020, 19034 (1996) (First Report and Order and Fourth Notice of Proposed Rulemaking). The Commission indicated it would be willing to reconsider its decision to impose the transmission usage limitation on LMDS if appropriate showings could be made. In light of the fact that LMDS equipment and operations have evolved in significant respects from the nature of the service in 1996, PCIA members are re-examining whether the sharing issues can be resolved and whether the limitation on hub-to-subscriber usage is necessary.

For the reasons stated above, the Commission should ensure that any action taken in this docket does not result in additional limitations on the use of Ka-band frequencies by LMDS as authorized by the Commission.

Respectfully submitted,

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ASSOCIATION**

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